



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Komatsu Dresser Company

**File:** B-239808

**Date:** August 28, 1990

J.A. Raverat for the protester.  
Archel Ransom for Champion Road Machinery International Corporation, R.J. Creen for Deere & Company, E.F. Wilson for Caterpillar, Inc., interested parties.  
Allen W. Smith, Forest Service, U.S. Department of Agriculture, for the agency.  
Guy R. Pietrovito, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

Specification which requires motorized graders to be equipped with sealed disk brakes is not unduly restrictive of competition where the record shows that the graders will be used in remote areas far from maintenance facilities and that sealed disk brakes require less maintenance and adjustment than drum brakes.

### DECISION

Komatsu Dresser Company protests the specifications in invitation for bids (IFB) No. WO-90-18, issued by the Forest Service, U.S. Department of Agriculture, for motorized graders to be delivered to 14 national forests. Komatsu contends that the IFB is unduly restrictive of competition.

We deny the protest.

The graders will be used in the construction, reshaping, and maintenance of Forest Service roads. In pertinent part, the IFB required the graders be equipped with 4-wheel, multiple disk brakes, completely sealed and adjustment free.

Komatsu protests that this requirement is restrictive of competition. Komatsu states that since 1985 the Forest Service has procured graders under a general performance specification, which allowed bidders to supply drum and shoe brakes. The protester argues that the IFB here states the

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same performance requirements as the prior procurements and that the agency's requirement for disk brakes is only a design preference, which adds nothing to the performance of the graders.

In preparing a solicitation for supplies or services, a procuring agency must specify its needs and solicit bids or offers in a manner designed to achieve full and open competition, so that all responsible sources are permitted to compete. 41 U.S.C. § 253(a)(1)(A) (1988). Determinations of the agency's minimum needs and the best method of accommodating those needs are primarily matters within the agency's discretion, which we will question only if the agency's determination does not have a reasonable basis. See MVM, Inc.; Cook Int'l, Inc.; Special Investigations, Inc.; and Varicon, Inc., B-237620, Mar. 13, 1990, 90-1 CPD ¶ 270.

The Forest Service explains that while it did not require a particular brake design in its prior procurements and had acquired graders equipped with either drum or disk brakes, it has found that sealed disk brakes are necessary for safety<sup>1/</sup> and maintenance reasons. The agency states that the graders are used on newly constructed roads at higher elevations, in remote areas and on relatively steep grades, and are used to tow compaction rollers which weigh approximately 15 tons.


The agency also states that sealed disk brakes require less maintenance, adjustments, and cleaning than do drum brakes and that sealed disk brakes do not rust, corrode, or become clogged and disabled from water, mud, and dust as do drum brakes. In this regard, the agency states that its graders, which are equipped with drum brakes, typically require extensive brake maintenance each field season and require a complete overhaul every 2 years. On the other hand, Forest Service graders which are equipped with sealed disk brakes have operated 10 to 12 years without brake maintenance. The protester concedes that disk brakes require less maintenance than drum brakes, but argues that disk brakes are more costly to overhaul than drum brakes.

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<sup>1/</sup> The agency contends that sealed disk brakes have superior braking ability to drum brakes and will not fade under heavy use, extreme heat, or in wet or moist conditions as do drum and shoe brakes. The protester responds that drum brakes meet the specification's stated performance requirements regarding brake fade.

The agency's stated concern, however, is not with the cost of maintaining the graders' brakes but with the fact that the graders will be used in remote areas where equipment maintenance facilities do not exist, and that sealed disk brakes will require significantly less maintenance than drum brakes. In this regard, the protester argues that the agency failed to provide any documentation substantiating its view that drum brakes would not meet the agency's minimum needs. We find from our review of the record,<sup>2/</sup> including the contracting officer's statement, that given the greater durability of the sealed disk brakes, especially since the graders will be operated in remote areas far from maintenance facilities, that the requirement for sealed disk brakes reasonably reflects the Forest Service's minimum needs and therefore is unobjectionable.<sup>3/</sup> See Carey Machinery & Supply Co., Inc., B-233455, Feb. 17, 1989, 89-1 CPD ¶ 171.

The protest is denied.

  
for James F. Hinchman  
General Counsel

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<sup>2/</sup> The protester also argues that none of the purchase requests submitted by the agency's regional offices specified graders with disk brakes. The agency's chief equipment engineer who had responsibility for drafting the specification requiring disk brakes states that purchase requests from the regional offices are not intended to specify all the required features for graders. Rather, the chief equipment engineer, based upon his experience and in consultation with regional office engineers, decides what features are necessary to meet the agency's minimum needs.

<sup>3/</sup> Since we find that the Forest Service's maintenance concerns state a reasonable basis for requiring graders with disk brakes, we need not address the protester's other arguments.